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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/128,721 08/04/98 CARROLL

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023456

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WADDEY & PATTERSON

414 UNION STREET, SUITE 2020

BANK OF AMERICA PLAZA

NASHVILLE TN 37219

EXAMINER

GUARRIELLO, J

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 11/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/128721

Applicant(s)

Carroll

Examiner

John Guarnello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/27/2001
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 111; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-42 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-42 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

15. The Examiner acknowledges papers # 15 and 16, the amendment and the 1.132 Declaration submitted 8/27/2001.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

17. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

18. Claims 1-3, 6-19, 22-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what the specific **coating** composition comprises which meets the characteristics of puncture resistance and flex

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crack resistance as stated in the claim. Claims merely setting forth physical characteristics desired in an article, and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in the future and which would impart desired characteristics.

In claim 13, it is not clear for the same reasons given for claim 1.

In claim 30, it is not clear for the same reasons given for claim 1.

In claim 37, it is not clear for the same reasons given for claim 1.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an

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international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 6-19, 22-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Langley 5,948,708.

Langley describes a multilayer composite which is a composite chemical barrier fabric, (see abstract). Langley describes chemical barrier fabric with multi-layers with multiple substrates to minimize permeability, (column 2, lines 51-59). Langley describes layers which can be among others high density polyethylene or aramid fibers, (column 3, lines 8-59). Langley describes that other materials or layers can be added as desired, like nylon or among others, (column 4, lines 1-17). Langley describes the tensile strength of the multilayer composite which can be a suit, (column 5, lines 1-20).

Langley describes the essential limitations of the claimed invention. It is the examiner's position that the claimed invention is a fabric with multiple layers and a coating on the layer of the fabric. Claims lack novelty.

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Applicant's arguments were noted, the rejection should be under 102(e) not 102(b), this appears to be a typographical error.

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-31, 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauer et al. 5,626,947.

Hauer describes a composite chemical barrier fabric with a barrier film laminated or extrusion coated to a flexible substrate using thermoplastic resin, which can be a thermoplastic olefin resin, and topcoating the barrier film, (see abstract; column 4, lines 4-20). Hauer describes a multiple layer structure of chemical barrier fabric with flexible substrate and strong in tensile strength

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and burst properties, (column 3, lines 1-18). Hauer describes clothing articles and polyolefins, like polyethylene and polypropylene, (column 4, lines 4-48). Hauer describes polymeric materials that can be used as well as heating, (column 5, lines 25-54). Hauer describes the thickness can be about 0.4 to 3.0 mils, (column 6, lines 37-41). Hauer describes the composite film barrier as a multilayer and can be slit, (column 7, lines 21-60). Hauer is silent about the 25% improvement in puncture resistance and flex-crack resistance but these would appear to be inherent properties since Hauer describes the essential limitations of the claimed invention. Hauer describes the essential limitations of the claimed invention. Claims lack novelty.

20. Applicant's declaration submitted under 1.132 has been considered but is not persuasive because the TPO is not claimed and the comparisons are improper. The claims are coated and the comparisons should reflect this.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

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number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



John J. Guarriello:gj

Patent Examiner

October 31, 2001



TERREL MORRIS
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